

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Theodore Alexander,

Case No. 4:18-cv-2926

Petitioner,

v.

ORDER

David W. Gray, Warden,

Respondent.

Petitioner Theodore Alexander requests permission to proceed with an appeal without first paying the filing fee. Alexander seeks to argue on appeal that I erred in rejecting his sufficiency of the evidence claim and his circumstantial evidence claim, as well as by declining to grant a certificate of appealability. (Doc. No. 23). I previously denied Alexander's § 2254 petition and declined to issue a certificate of appealability. (Doc. No. 20).

Section 1915 provides “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). The standard for granting a motion to proceed in forma pauperis on appeal is lower than the standard for issuing a certificate of appealability. *See Foster v. Ludwick*, 208 F. Supp. 2d 750, 764 (E.D. Mich. 2002) (citing *United States v. Youngblood*, 116 F.3d 1113, 1115 (5th Cir. 1997)). A court may grant a motion to proceed in forma pauperis if the issues are arguable on their merits, even if the petitioner cannot show a probability of success on the merits. *Foster*, 208 F. Supp. 2d at 765.

While I am not convinced Alexander has demonstrated a probability of success on the merits of his claims, I conclude the issues he presents are colorable. Therefore, I grant his motion to proceed in forma pauperis on appeal. (Doc. No. 23).

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge